

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

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UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

IN RE:
NON-JUDICIAL CIVIL FORFEITURE
PROCEEDING

Misc. No.: 5:19-mc-9

CLERK
BY [Signature]
DEPUTY CLERK

**STIPULATED APPLICATION OF UNITED STATES FOR
ORDER TOLLING TIME IN WHICH TO FILE COMPLAINT FOR FORFEITURE
OR TO OBTAIN AN INDICTMENT ALLEGING FORFEITURE OF PROPERTY**

The United States of America (the “United States”), by and through its attorney, Christina E. Nolan, United States Attorney for the District of Vermont, hereby applies to the Court, pursuant to 18 U.S.C. § 983(a)(3)(A), and by stipulation of all interested parties, for an order tolling the time in which the United States may file a complaint for forfeiture, or obtain an indictment alleging forfeiture, with respect to certain property against which the Drug Enforcement Administration (“DEA”) has initiated non-judicial civil forfeiture proceedings and to which claimant Fred Combs has asserted an interest, to wit: \$15,000.00, more or less, in United States currency (Asset ID 18-DEA-645327) (the “Subject Property”).

In support of this application, the United States respectfully submits as follows:

1. On September 14, 2018, the DEA, with the assistance of the Milton Police Department, located the Subject Property while executing a search warrant at the residence of Jerry Edward Romero, Jr., located at 77 Bear Trap Road, Milton, Vermont. Upon completing the search, the DEA seized the Subject Property.
2. The DEA thereafter commenced administrative proceedings to forfeit the Subject Property pursuant to 21 U.S.C. § 881.

3. The DEA published notice of the forfeiture proceedings on an official internet government forfeiture site (www.forfeiture.gov) for thirty consecutive days, from November 12, 2018 to and through December 11, 2018, in accordance with 28 C.F.R. § 8.9(a). The DEA also provided personal written notice of the proceedings to all known interested parties in accordance with 18 U.S.C. § 983(a) and 28 C.F.R. § 8.9(b).

4. On November 26, 2018, the DEA received from Fred Combs a claim to the Subject Property.

5. To date, no other person has filed a claim to the Subject Property and, pursuant to 18 U.S.C. § 983(a)(2), the time for filing such a claim has expired.

6. Section 983(a)(3) of Title 18 of the United States Code provides in pertinent part:

(A) Not later than 90 days after a claim has been filed, the Government shall file a complaint for forfeiture in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims or return the property pending the filing of a complaint, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.

....

(C) In lieu of, or in addition to, filing a civil forfeiture complaint, the Government may include a forfeiture allegation in a criminal indictment.

18 U.S.C. § 983(a)(3)(A)-(C) (Emphasis added).

7. Based on its receipt of Mr. Combs' claim, the United States currently has until February 24, 2019, to file a complaint for forfeiture against the Subject Property, to obtain an indictment alleging that the Subject Property is subject to forfeiture, or to return the Subject Property, unless the Court extends such time "for good cause shown or upon agreement of the parties." 18 U.S.C. § 983(a)(3)(A).

8. The United States respectfully submits that the current lapse in appropriations to the Department of Justice (the “Department”) constitutes good cause to extend the time in which the United States may file a complaint for forfeiture against the Subject Property or obtain an indictment alleging that the Subject Property is subject to forfeiture.

9. At midnight on December 21, 2018, the continuing resolution that had been funding the Department expired and Congressional appropriations to the Department lapsed.

10. Absent Congressional appropriations or a continuing resolution that provides funding for the Department, Department attorneys are prohibited from working, even on a voluntary basis, except in very limited circumstances, such as “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

11. The Department currently does not know when its funding will be restored and its attorneys will be permitted to resume their regular civil litigation functions.

12. Accordingly, the United States respectfully requests an order tolling the time in which the United States may file a complaint for forfeiture against the Subject Property, or obtain an indictment alleging that the Subject Property is subject to forfeiture, until Congress has restored funding to the Department.

13. If this application is granted, the United States will notify the Court when Congress has restored funding to the Department. The United States respectfully requests that, at that point, the time in which to file a complaint for forfeiture against the Subject Property, or to obtain an indictment alleging that the Subject Property is subject to forfeiture, be extended commensurate with the duration of the lapse of appropriations.

14. Prior to filing this application, the United States sought the consent of claimant Fred Combs, who advised that he is agreeable to the requested relief.

Based on the foregoing, and with great regret for any inconvenience that such relief may cause, the United States respectfully requests an order, pursuant to 18 U.S.C. § 983(a)(3)(A), tolling the time in which the United States may file a complaint for forfeiture against the Subject Property, or obtain an indictment alleging that the Subject Property is subject to forfeiture, until Congress has restored funding to the Department.

Dated at Burlington, in the District of Vermont, this 24th day of January, 2019.

Respectfully submitted,

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